

REMARKS

Claims 28, 29, 31, 32, 34-41, 43-45, 47-49 and 51-58 are pending in the application. Claims 28, 29, 31, 32 and 34 were found allowable while the remaining claims 45, 47-49 and 51-58 were rejected.

Information Disclosure Statement

Applicant respectfully reminds the Examiner that a Supplemental Information Disclosure Statement was submitted on 3 December 2003 and requests that the Examiner provide an initialed copy of the Form 1449 accompanying said disclosure.

Rejection Under 35 U.S.C. §112 (Paragraph 2)

Claims 35-41 and 43-44 were rejected under 35 U.S.C. section 112, second paragraph, as being indefinite for reciting both swine and animals while depending from claim 29, which was amended to recite swine only.

In response, Applicant has amended claims 35, 36 and 39 to recite swine and make them consistent with claim 29. The other claims rejected under this section depend from claims 35, 36 and 39 and thus require no further amendment.

Claims 41 was rejected under 35 U.S.C. section 112, second paragraph, as being indefinite for lack of antecedent basis in that it depends from claim 39 and recites "said swine in step (b) carrying PERV 3,4" and "said swine in step (b) carrying PERV 1,2" whereas claim 39 uses instead the terms "first animal" and "second animal."

In response, Applicants have amended claim 41 to recite first and second swine, thereby avoiding this ground of rejection.

Rejection Under 35 U.S.C. §102

Claims 45-52 were rejected under section 102(b) as anticipated by Kaeffer et al (1991).

In response, Applicant notes that claims 46 and 50 were previously canceled.

Claims 53-58 were rejected under section 102(b) as anticipated by Kaeffer et al (1991).

Applicant has canceled claims 56-58 and amended claims 53-55. Claims 53-58 are directed to a transplant and were rejected on grounds that Kaeffer et al disclose aseptic isolation of a spleen into ELY medium for eventual mincing and recovery of splenocytes. Conversely, organs destined for human transplantation are commonly stored on ice and not in any fluids that might compromise their vascular system and utility in the transplantation process, none of which is enabled by Kaeffer et al. Amended claim 53, from which claims 54 and 55 depend, recites a transplant from a human-tropic PERV-free swine. Such a swine is not disclosed in Kaeffer et al but only a herd of swine, some of which may or may not be human-tropic PERV free. Regardless, Kaeffer et al do not disclose isolation of any organs from a human-tropic PERV-free swine but only collection of spleen stored in fluid for mincing purposes. Such disclosure in no way anticipates Applicant's claimed transplant. The organ isolated by Kaeffer et al is useless for transplant purposes unless it is known to be human-tropic PERV-free, which determination was not made by Kaeffer. However, such animals are specifically produced by Applicant's claimed

process and the claimed transplant is from an animal known to be human-tropic PERV-free.

In addition, Applicant notes that amended claim 53 is directed to a transplant from an inbred human-tropic PERV-free swine and that therefor the transplant itself is inherently human-tropic PERV-free. Such a transplant is in no way suggested by Kaeffer. In sum, Kaeffer's disclosure no more anticipates Applicant's invention than any porcine retail item procured from the local butcher shop prior to Applicant's priority date.

Applicant has also added new claims 59 and 60, limiting the transplant to one derived from a swine produced by the method of either claim 28 or claim 29, thereby replacing original claims 53 and 56, respectively.

No fee is believed due in filing this response. The Commissioner is authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 03-0678.

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3/1/04

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Respectfully submitted,



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